

RECORDATION NO. 23961-A FILED

MAY 09 '02

1-55 PM

SURFACE TRANSPORTATION BOARD

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ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

May 9, 2002

Julia Farr, Esq.  
Office of Proceedings  
Surface Transportation Board  
Washington, D.C. 20423

Dear Ms. Farr:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Termination of Security Interest, dated as of May 9, 2002, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Mortgage which was previously filed with the Board under Recordation Number 23961.

The names and addresses of the parties to the enclosed document are:

Borrower:	Babcock & Brown Rail Funding LLC 599 Lexington Avenue New York, New York 10022
Secured Party:	Bayerische Hypo-Und Vereinsbank AG, as Agent FPA 4 Lease/Asset Finance Am Tucherpark 1 (FPA) 80538 Munich Germany

Julia Farr, Esq.  
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A description of the railroad equipment covered by the enclosed document is:

One thousand and twenty-seven (1027) railcars bearing CEFX or CHTT reporting marks and assorted road numbers, as particularly shown in Exhibit I attached to the Memorandum of Mortgage.

A short summary of the document to appear in the index is:

Termination of Security Interest.

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/anm  
Enclosures

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SURFACE TRANSPORTATION BOARD

TERMINATION OF SECURITY INTEREST

**THIS TERMINATION OF SECURITY INTEREST** (this "**Termination**") is made this 9th day of May, 2002 between **BABCOCK & BROWN RAIL FUNDING LLC** (the "**Borrower**") and **BAYERISCHE HYPO- UND VEREINSBANK AG**, as agent for the banks under the Credit Agreement (the "**Agent**"). Capitalized terms used in this Termination and not otherwise defined herein shall have the meanings in the Credit Agreement (as defined below).

**WHEREAS**, the Borrower, the banks party thereto and the Agent are parties to that certain Credit Agreement (the "**Credit Agreement**") dated as of December 1, 2000;

**WHEREAS**, the Borrower and the Agent are parties to that certain Security Agreement dated as of December 1, 2000 (the "**Original Security Agreement**"), as supplemented by Security Agreement Supplement No. 1 dated December 19, 2000 ("**Security Agreement Supplement No. 1**"), Security Agreement Supplement No. 2 dated as of June 29, 2001 ("**Security Agreement Supplement No. 2**"), Security Agreement Supplement No. 3 dated March 28, 2002 ("**Security Agreement Supplement No. 3**") and Security Agreement Supplement No. 4 dated April 30, 2002 ("**Security Agreement Supplement No. 4**"; together with the Original Security Agreement, Security Agreement Supplement No. 1, Security Agreement Supplement No. 2 and Security Agreement Supplement No. 3, collectively, the "**Supplemented Security Agreement**");

**WHEREAS**, the lien and security interest created in favor of the Agent with respect to the Units and Qualifying Leases described in Security Agreement Supplement No. 1 were terminated and released pursuant to that certain Termination of Security Agreement dated May 29, 2001 ("**Termination No. 1**") between the Borrower and the Agent, which Termination No. 1 was duly filed for recordation with the Surface Transportation Board ("**STB**") pursuant to 49 U.S.C. Section 11301 on May 29, 2001 at 4:39 p.m. and given Recordation Number 23285-A;

**WHEREAS**, the lien and security interest created in favor of the Agent with respect to the Units and Qualifying Leases described in Security Agreement Supplement No. 2 were terminated and released pursuant to that certain Termination of Security Interest dated October 10, 2001 ("**Termination No. 2**") between the Borrower and the Agent, which Termination No. 2 was duly filed for recordation with the STB pursuant to 49 U.S.C. Section 11301 on October 10, 2001 at 1:28 p.m. and given Recordation Number 23541-A;

**WHEREAS**, the lien and security interest created in favor of the Agent with respect to the Units and Qualifying Leases described in Security Agreement Supplement No. 3 were terminated and released pursuant to that certain Termination of Security Interest dated May 9, 2002 ("**Termination No. 3**") between the Borrower and the Agent, which Termination No. 3 was duly filed for recordation with the STB pursuant to 49 U.S.C. Section 11301 on May 9, 2002 at \_\_\_\_ p.m. and given Recordation Number 23919-A;

**WHEREAS**, the Supplemented Security Agreement created a lien and security interest in favor of the Agent in and to the Units and the Qualifying Leases (each as defined in the Supplemented Security Agreement);

**WHEREAS**, the Borrower and the Agent are parties to that certain Memorandum of Mortgage dated as of April 30, 2002 (the "**Memorandum of Mortgage**");

**WHEREAS**, the Memorandum of Mortgage was duly filed for recordation with the STB pursuant to 49 U.S.C. Section 11301 on April 30, 2002 at 11:36 a.m. and given Recordation Number 23961; and

**WHEREAS**, the Borrower and the Agent now desire to terminate and cancel the Agent's security interest in and mortgage lien upon all right, title and interest of the Borrower in, to and under the property described in Schedule I to Security Agreement Supplement No. 4 and Exhibits A and B to the Memorandum of Mortgage, as specified in Exhibit I hereto, and to record such termination and cancellation with the STB.

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and the Agent, intending to be legally bound, agree as follows:

1. The Borrower and the Agent hereby terminate and cancel the Agent's security interest in and mortgage lien upon all right, title and interest of the Borrower in, to and under the property described in Schedule I to Security Agreement Supplement No. 4 and Exhibits A and B to the Memorandum of Mortgage, as specified in Exhibit I hereto, effective as of the date this Termination is filed with the STB (the "**Effective Date**"), and the Borrower and the Agent hereby agree that no rights, duties or liabilities under the Supplemented Security Agreement in relation to the property described in Schedule I to Security Agreement Supplement No. 4 and Exhibits A and B to the Memorandum of Mortgage, as specified in Exhibit I hereto, shall survive such termination and cancellation of the Agent's security interest in and mortgage lien upon all right, title and interest of the Borrower in, to and under the property described in Schedule I to Security Agreement Supplement No. 4 and Exhibits A and B to the Memorandum of Mortgage, as specified in Exhibit I hereto, except with respect to acts, events, or omissions under the Supplemented Security Agreement occurring on or prior to the Effective Date and indemnities with respect to such acts, events or omissions.

2. The Borrower and the Agent agree to record this Termination with the STB so as to release any security interest in and mortgage lien upon the property described in Schedule I to Security Agreement Supplement No. 4 and Exhibits A and B to the Memorandum of Mortgage, as specified in Exhibit I hereto, created by or arising out of the Supplemented Security Agreement.

3. This Termination may be executed in any number of counterparts, each executed counterpart constituting an original but all together constituting only one and the same agreement.


4. This Termination shall be governed by and construed in accordance with the laws of the State of New York and is being delivered in the State of New York.

\* \* \*

[Termination of Security Interest]

**IN WITNESS WHEREOF**, the Borrower and the Agent have each caused this Termination of Security Interest to be duly executed and delivered as of the date first above written.

**BABCOCK & BROWN RAIL FUNDING  
LLC**

By:   
Name: Lawrence Littlefield  
Title: Vice President

**BAYERISCHE HYPO- UND  
VEREINSBANK AG**, not it its individual  
capacity except as expressly provided herein, but  
solely as Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[Termination of Security Interest]

IN WITNESS WHEREOF, the Borrower and the Agent have each caused this Termination of Security Interest to be duly executed and delivered as of the date first above written.

**BABCOCK & BROWN RAIL FUNDING  
LLC**

By: \_\_\_\_\_  
Name:  
Title:

**BAYERISCHE HYPO- UND  
VEREINSBANK AG**, not in its individual  
capacity except as expressly provided herein,  
but solely as Agent

By: Step. Nypf  
Name: Stephan Nypf  
Title: MD

By: Christian Fölsch  
Name: MARTIN FÖLSCH  
Title: KVP

[Termination of Security Interest]

STATE OF New York )

) SS:

COUNTY OF New York )

On this 6<sup>th</sup> day of May, 2002, before me personally appeared Lawrence Littlefield, to me personally known, who, being by me duly sworn, says that he is Vice President of Babcock & Brown Rail Funding LLC and that the foregoing Termination of Security Interest was signed on behalf of said limited liability corporation. Further, he acknowledged that the execution of the foregoing Termination of Security Interest was the free act and deed of said limited liability corporation.

*Jennifer Moreno*  
Notary Public

(NOTARIAL SEAL)

My Commission Expires:

\_\_\_\_\_  
*Jennifer Moreno*  
*Notary Public, State of New York*  
*No. 0606036346*  
*Qualified in Queens County*  
*Commission Expires January 24, 2004*

[Termination of Security Interest]

STATE OF New York                    )  
  )     SS:  
COUNTY OF New York                )

Subscribed to me on this 8th day of May 2002 by Stefan Niggel, Managing Director of  
Bayerische Hypo- und Vereinsbank AG and Martin Tobies, Assistant Vice President of  
Bayerische Hypo- und Vereinsbank AG.

Michelle N. Scollo  
Notary Public

(NOTARIAL SEAL)

My Commission Expires:

October 31, 2002

MICHELLE N. SCOLLO  
Notary Public, State of New York  
No. 31-5035365  
Qualified in New York County  
Commission Expires 10/31/2002



**Exhibit I to  
Termination of Security Interest**

**EQUIPMENT**

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
1	117	49 in 1999; 68 in 2000	5,150 CF covered hopper railcars with gravity gates and trough hatches.	1999 built: CEFX 12021, 12023, 12035, 12038- 12040, inclusive; 12044, 12048, 12053, 12056, 12090, 12093, 12095, 12097, 12100-12101, inclusive; 12104, 12106-12107, inclusive; 12109- 12110, inclusive; 12112, 12114, 12116, 12121, 13051-13052, inclusive; 13054, 13056, 13057, 13059, 13063, 13123, 13127, 13128, 13131- 13135, inclusive; 13137, 13145, 13147-13148, inclusive; 13150, 13153, 13161, 13166, and 13185.  2000 built: 13711- 13753, inclusive; and 13755-13779, inclusive.	None.

[Termination of Security Interest]

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
2	30	2000	5,660 CF P.D. covered hopper railcars.	CEFX 75711, 75715-75716, inclusive; 75725- 75750, inclusive, and 75755.	None.
3	20	2000	5,660 CF P.D. covered hopper railcars lined with Sigma 5476.	CEFX 75768- 75770, inclusive; 75781-75784, inclusive; 75787, 75793, 75796, 75799-75800, inclusive; 75803, 75811-75814, inclusive; 75816- 75817, inclusive; and 75819.	None.
4	200	1998	3,250 CF covered hopper railcars with gravity gates and round hatches.	CEFX 80000- 80199.	None.
5	100	2001	3,230 CF P.D. covered hopper railcars.	CEFX 95520- 95619, inclusive.	None.

[Termination of Security Interest]

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
6	125	2 in 1995; 123 in 1999	4,480 CF aluminum coal gondola railcars.	1995 built: CEFX 43191 and 43214.  1999 built: CEFX 40988, 41007, 41058, 41060- 41115, inclusive; 41117- 41129, inclusive; 41133, 41136, 41143-41158, inclusive; 41160- 41179, inclusive; 41181-41189, inclusive; 41227, 41255, and 41316- 41317, inclusive.	None.
7	240	1998	Autoflood coal railcars.	CHTT 503001- 503240, inclusive.	None.

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
8	195	1998.	Bethgon coal railcars.	1998 built: CHTT 503241, 503246, 503248- 503252, inclusive; 503255-503257, inclusive; 503261- 503264, inclusive; 503268-503280, inclusive; 503282, 503284, 503285, 503287-503296, inclusive; 503298- 503303, inclusive; 503309, 503312, 503313, 503316, 503318, 503319, 503321-503324, inclusive; 503326- 503343, inclusive; 503345, 503348- 503350, inclusive; 503354, 503357, 503362-503389, inclusive; 503391- 503449, inclusive; 503451-503458, inclusive; 503460- 503465, inclusive; and 503467- 503480, inclusive.	CHTT 503242- 503245, inclusive; 503247, 503253, 503254, 503258- 503260, inclusive; 503265- 503267, inclusive; 503281, 503283, 503286, 503297, 503304- 503308, inclusive; 503310, 503311, 503314, 503315, 503317, 503320, 503325, 503344, 503346, 503347, 503351- 503353, inclusive; 503355, 503356, 503358- 503361, inclusive; 503390, 503450, 503459, and 503466.

**LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS**

Lease No. 1 – Louis Dreyfus Corporation

Master Railcar Lease made as of July 28, 2000 effective as of September 26, 1999, between The CIT Group/Equipment Financing, Inc. and Louis Dreyfus Corporation.

Schedule No. 02 to Master Railcar Lease made as of September 11, 2000.

Amendment No. 1 to Schedule No. 02 to Master Railcar Lease dated as of April 26, 2002.

Memorandum of Railcar Lease dated as of September 11, 2000, between The CIT Group/Equipment Financing, Inc. and Louis Dreyfus Corporation.

Lease No. 2 – ConAgra, Inc. #1

Master Railcar Lease made as of April 30, 1999, between The CIT Group/Equipment Financing, Inc. and ConAgra, Inc.

Schedule No. 08 to Master Railcar Lease made as of July 30, 2001.

Memorandum of Railcar Lease dated as of July, 30, 2001, between The CIT Group/Equipment Financing, Inc. and ConAgra, Inc., d/b/a ConAgra Foods, Inc.

Lease No. 3 – ConAgra, Inc. #2

Master Railcar Lease made as of April 30, 1999, between The CIT Group/Equipment Financing, Inc. and ConAgra, Inc.

Schedule No. 09 to Master Railcar Lease made as of December 6, 2001.

Memorandum of Railcar Lease dated as of December 6, 2001, between The CIT Group/Equipment Financing, Inc. and ConAgra, Inc.

Lease No. 4 – GCC Rio Grande, Inc. (f/k/a Rio Grande Portland Cement Corporation)

Master Railcar Lease made as of February 11, 1998, between The CIT Group/Equipment Financing, Inc. and GCC Rio Grande, Inc. (f/k/a Rio Grande Portland Cement Corporation).

Schedule No. 03 to Master Railcar Lease made as of June 26, 2001.

Memorandum of Railcar Lease dated as of June 26, 2001, between The CIT Group/Equipment Financing, Inc. and GCC Rio Grande, Inc. (f/k/a Rio Grande Portland Cement Corporation).

Lease No. 5 – Boral Material Technologies, Inc.

Master Railcar Lease made as of April 23, 1999, between The CIT Group/Equipment Financing, Inc. and Boral Material Technologies, Inc.

Schedule No. 02 to Master Railcar Lease made as of February 14, 2001.

Memorandum of Railcar Lease dated as of February 14, 2001, between The CIT Group/Equipment Financing, Inc. and Boral Material Technologies, Inc.

Lease No. 6 – Kansas City Power and Light Company

Master Railcar Lease made as of May 2, 2001, between The CIT Group/Equipment Financing, Inc. and Kansas City Power and Light Company.

Schedule No. 01 to Master Railcar Lease made as of May 2, 2001.

Amendment No. 1 to Schedule No. 01 to Master Railcar Lease dated as of April 25, 2002.

Memorandum of Railcar Lease dated as of May 2, 2001, between The CIT Group/Equipment Financing, Inc. and Kansas City Power and Light Company.

Lease No. 7 – Union Pacific Railroad Company #1

Master Railcar Lease made as of November 11, 1998 and effective as of January 1, 1998, between The CIT Group/Equipment Financing, Inc. and Union Pacific Railroad Company.

Schedule No. 06 to Master Railcar Lease made as of November 12, 1999.

Memorandum of Railcar Lease dated as of November 12, 1999, between The CIT Group/Equipment Financing, Inc. and Union Pacific Railroad Company.

Lease No. 8 – Union Pacific Railroad Company #2

Master Railcar Lease made as of November 11, 1998 and effective as of January 1, 1998, between The CIT Group/Equipment Financing, Inc. and Union Pacific Railroad Company.

Schedule No. 07 to Master Railcar Lease made as of November 12, 1999.

Memorandum of Railcar Lease dated as of November 12, 1999, between The CIT Group/Equipment Financing, Inc. and Union Pacific Railroad Company.

**CERTIFICATION**

I, Edward M. Luria, an attorney licensed to practice in the District of Columbia, the State of Delaware and the Commonwealth of Pennsylvania, do hereby certify under penalty of perjury that I have compared the attached copy of a Termination of Security Interest with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: May 9, 2002

Edward M. Luria

Edward M. Luria